

may qualify for replacement housing when it is determined by the grantee that the housing is not economically feasible for repair or rehabilitation. Grantees are expected to:

(1) Coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations or activities operating in the same geographic area; and

(2) Focus the program on rural areas and smaller communities so that it serves very low and low-income persons.

(b) RHS intends to permit grantees considerable latitude in program design and administration. The forms or types of assistance must provide the greatest long-term benefit to the greatest number of persons residing in individual housing, rental properties, or co-ops needing repair and rehabilitation or replacement of individual housing.

(c) Repairs and rehabilitation or replacement activities affecting properties on or eligible for listing on the National Register of Historic Places will be accomplished in a manner that supports national historic preservation objectives as specified in § 1944.673.

[62 FR 26208, May 13, 1997]

§ 1944.653 Objective.

The objective of the HPG program is to repair or rehabilitate individual housing, rental properties, or co-ops owned and/or occupied by very low- and low-income rural persons. Grantees will provide eligible homeowners, owners of rental properties, and owners of co-ops with financial assistance through loans, grants, interest reduction payments or other comparable financial assistance for necessary repairs and rehabilitation. Further, individual housing that is owner occupied may qualify for replacement housing when it is determined by the grantee that the housing is not economically feasible for repair or rehabilitation, except as specified in § 1944.659.

[58 FR 21894, Apr. 26, 1993, as amended at 62 FR 26209, May 13, 1997]

§ 1944.654 Debarment and suspension—drug-free workplace.

(a) For purposes of this subpart, exhibit A of FmHA Instruction 1940-M (available in any Agency office) requires all Rural Development applicants; for an HPG to sign and submit with their preapplication, Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions," which basically states that the applicant has not been debarred or suspended from Government assistance. Further, all grantees after receiving a HPG must obtain a signed certification (Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions") from all persons or entities (excluding homeowner recipients) that the grantee does business with as a result of the HPG. Grantees are responsible for informing these persons or entities of the provisions of exhibit A of FmHA Instruction 1940-M (available in any Agency office) and of maintaining Form AD-1048 in the grantee's office.

(b) Grantees must also be made aware of the Drug-free Workplace Act of 1988 requirements found in exhibit A of FmHA Instruction 1940-M (available in any Agency office). For this subpart, a grantee is defined as any organization who applies for or receives a direct grant from Rural Development. All preapplications must include a signed Form AD-1049, "Certification Regarding Drug-free Workplace Requirements (Grants) Alternative I—Grants Other Than Individuals."

[58 FR 21894, Apr. 26, 1993, as amended at 61 FR 39851, July 31, 1996]

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§ 1944.656 Definitions.

References in this subpart to District, State, National and Finance Offices, and to District Director, State Director, and Administrator refer to Rural Development offices and officials and should be read as prefaced by Rural Development. Terms used in this subpart have the following meanings:

Adjusted income. As defined in 7 CFR 3550.54(c).

Applicant or grantee. Any eligible organization which applies for or receives HPG funds under a grant agreement.

Cooperative (co-op). For the purposes of the HPG program, a cooperative (co-op) is one which:

- (1) Is a corporation organized as a consumer cooperative;
- (2) Will operate the housing on a non-profit basis solely for the benefit of the occupants; and
- (3) Is legally precluded from distributing, for a minimum period of 5 years from the date of HPG assistance from the grantee, any gains or profits from operation of the co-op. For this purpose, any patronage refunds to occupants of the co-op would not be considered gains or profits. A co-op may accept non-members as well as members for occupancy in the project.

Grant agreement. The contract between Agency and the grantee which sets forth the terms and conditions under which HPG funds will be made available. (See exhibit A of this subpart which is available in any Agency office.)

Homeowner. For the purposes of the HPG program, a homeowner is one who can meet the conditions of income and ownership under §1944.661 of this subpart.

Household. For the purposes of the HPG program, a household is defined as all persons living all or part of the next 12 months in a unit or dwelling assisted with HPG funds.

Housing preservation. The repair and rehabilitation activities that contribute to the health, safety, and well-being of the occupant, and contribute to the structural integrity or long-term preservation of the unit. As a result of these activities, the overall condition of the unit or dwelling must be raised to meet RHS Thermal Standards for existing structures and applicable development standards for existing housing recognized by RHS in part 1924, subpart A, of this chapter or standards contained in any of the voluntary national model codes acceptable upon review by RHS. Properties included on or eligible for inclusion on the National Register of Historic Places are subject to the standards and conditions of §1944.673. The term "housing preserva-

tion" does not apply to replacement housing.

HPG. Housing Preservation Grant.

Low income. An adjusted annual income that does not exceed the "lower" income limit according to size of household as established by the United States Department of Housing and Urban Development (HUD) for the county or Metropolitan Statistical Area (MSA) where the property is located. Maximum low-income limits are set forth in Appendix 9 of HB-1-3550 (available in any Rural Development office).

Organization. An organization is defined as one of the following:

- (1) A State, commonwealth, trust territory, other political subdivision, or public nonprofit corporation authorized to receive and administer HPG funds;
- (2) An American Indian tribe, band, group, nation, including Alaskan Indians, Aleuts, Eskimos and any Alaskan Native Village, of the United States which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law (Pub. L.) 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512);
- (3) A private nonprofit corporation that is owned and controlled by private persons or interests for purposes other than making gains or profits for the corporation, is legally precluded from distributing any gains or profits to its members, and is authorized to undertake housing development activities; or
- (4) A consortium of units of government and/or private nonprofit organizations which is otherwise eligible to receive and administer HPG funds and which meets the following conditions:
 - (i) Be comprised of units of government and/or private nonprofit corporations that are close together, located in the same state, and serve areas eligible for FmHA or its successor agency under Public Law 103-354 housing assistance; and
 - (ii) Have executed an agreement among its members designating one participating unit of government or private nonprofit corporation as the applicant or designating a legal entity

RHS, RBS, RUS, FSA, USDA

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(such as a Council of Governments) to be the applicant.

Overcrowding. The guidelines in the table in this definition are designed to assist grantees in implementing occupancy standards. Part 1930, subpart C, exhibit B, paragraph VID2, of this chapter (available in any Rural Development State or District Office) gives further guidance. The table follows:

| Number of bedrooms | Ideal number of persons |
|--------------------|-------------------------|
| 0 | 2 |
| 1 | 2 |
| 2 | 4 |
| 3 | 6 |
| 4 | 8 |
| 5 | 10 |

Rental properties. Rental properties are defined as single-unit or multi-unit dwellings used for occupancy by tenants, owners, or members of an owner's immediate family.

Replacement housing. The replacement of existing, individual owner occupied housing where repair and rehabilitation assistance is not economically feasible or practical. The term replacement housing does not apply to housing preservation. The overall condition of the unit or dwelling must meet RHS Thermal Standards for new or existing structures and applicable development standards for new or existing housing recognized by RHS in part 1924, subpart A, of this chapter or standards contained in any of the voluntary national model codes acceptable upon review by RHS. Properties included on or eligible for inclusion on the National Register of Historic Places are subject to the standards and conditions of §1944.673 prior to replacement.

RHS. RHS means the Rural Housing Service, or a successor agency.

Rural area. The definition in 7 CFR part 3550 applies.

Tenant. Any person who resides in a single- or multi-unit rental property.

Very low-income. An adjusted annual income that does not exceed the very low-income limit according to size of household as established by HUD for the county of MSA where the property

is located. Maximum very low-income limits are set forth in 7 CFR part 3550.

[58 FR 21894, Apr. 26, 1996, as amended at 61 FR 39851, July 31, 1996; 62 FR 26209, May 13, 1997; 67 FR 78329, Dec. 24, 2002]

§ 1944.657 Restrictions on lobbying.

All applicants must comply with FmHA Instruction 1940-Q (available in any FmHA or its successor agency under Public Law 103-354 office) which prohibits applicants of Federal grants from using appropriated funds for lobbying the Federal Government in connection with a specific grant.

§ 1944.658 Applicant eligibility.

(a) To be eligible to receive a grant, the applicant must:

(1) Be an organization as defined in §1944.656 of this subpart;

(2) Have the necessary background and experience on the part of its staff or governing body with proven ability to perform responsibility in the field of low-income rural housing development, repair and rehabilitation, or have other business management or administrative experience which indicates an ability to operate a program providing repair and rehabilitation financial assistance as well as for replacement housing;

(3) Legally obligate itself to administer HPG funds, provide an adequate accounting of the expenditure of such funds in compliance with the terms of this regulation, the grant agreement, and 7 CFR parts 3015 or 3016 (available in any FmHA or its successor agency under Public Law 103-354 office), as appropriate, and comply with the grant agreement and FmHA or its successor agency under Public Law 103-354 regulations; and

(4) If the applicant is engaged in or plans to become engaged in any other activities, provide sufficient evidence and documentation that they have adequate resources, including financial resources, to carry on any other programs or activities to which they are committed without jeopardizing the success and effectiveness of the HPG project.

(b) An applicant will *not* be considered eligible if it is a nonprofit entity and its proposal is based *solely* on an identity of interest, as defined in